



6560-50-P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 81

[EPA-HQ-OAR-2013-0802; FRL 9909-23-OAR]

RIN 2060-AS15

Technical Amendments to Inadvertent Errors in Air Quality Designations for Fine Particles, Ozone, Lead, Nitrogen Dioxide and Sulfur Dioxide

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: This action proposes technical amendments to address several minor, inadvertent and nonsubstantive errors in the regulatory text establishing the air quality designations for certain areas in fourteen states for the 1997 Fine Particles (PM_{2.5}) National Ambient Air Quality Standard (NAAQS), the 2008 Ozone NAAQS, the 2008 Lead NAAQS, the 2010 Nitrogen Dioxide (NO₂) NAAQS and the 2010 Sulfur Dioxide (SO₂) NAAQS. The states are: Alabama, Florida, Georgia, Idaho, Indiana, Iowa, Minnesota, Missouri, North Carolina, Ohio, Oregon, Tennessee, Washington and Wisconsin. This action does not propose to change the designation for any area. In the “Rules” section of this *Federal Register*, we are making the same technical amendments as a direct final rule without a prior proposed rule. If we receive no adverse comment, we will not take further action on this proposed rule.

DATES: Comments must be received on or before **[INSERT DATE 30 DAYS FROM PUBLICATION IN THE *FEDERAL REGISTER*]**.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA-HQ-OAR-2013-0802, by one of the following methods:

- *www.regulations.gov*. Follow the on-line instructions for submitting comments.
- *Email: a-and-r-Docket@epamail.epa.gov*, Attention Docket ID No. EPA-HQ-OAR-2013-0802.
- *Fax: (202) 566-1541*, Attention Docket ID No. EPA-HQ-OAR-2013-0802.
- *Mail: Docket ID No. EPA-HQ-OAR-2013-0802*, Environmental Protection Agency, Mailcode: 6102T, 1200 Pennsylvania Ave., NW, Washington, D.C. 20460.
- *Hand Delivery: EPA Docket Center, U.S. Environmental Protection Agency, 1301 Constitution Avenue, NW, Room: 3334, Mail Code: 6102T, Washington, D.C. 20460*, Attention Docket ID No. EPA-HQ-OAR-2013-0802. Such deliveries are only accepted during the Docket's normal hours of operation, and special arrangements should be made for deliveries of boxed information.

Instructions: Direct your comments to Docket ID No. EPA-HQ-OAR-2013-0802. The Environmental Protection Agency (EPA)'s policy is that all comments received will be included in the public docket without change and may be made available online at *www.regulations.gov*, including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through *www.regulations.gov*, or email. The *www.regulations.gov* website is an "anonymous access" system, which means the EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an email comment directly to the EPA without going through *www.regulations.gov*, your email address will be automatically captured and included as

part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, the EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD-ROM you submit. If the EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, the EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption and be free of any defects or viruses. Send or deliver information identified as CBI only to the following address: Roberto Morales, OAQPS Document Control Officer (C404-02), U.S. EPA, Research Triangle Park, NC 27711, Attention Docket ID No. EPA-HQ-OAR-2013-0802.

For additional information about the EPA's public docket, visit the EPA Docket Center homepage at <http://www.epa.gov/epahome/dockets.htm>.

Docket: All documents in the docket are listed in the index at <http://www.regulations.gov>. Although listed in the index, some information is not publicly available, i.e., CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available either electronically through <http://www.regulations.gov> or in hard copy at the EPA's Docket Center, Public Reading Room, William Jefferson Clinton West Building, Room 3334, 1301 Constitution Avenue, NW, Washington, D.C. 20004. This Docket Center is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Public Reading Room is (202) 566-1744, and the telephone number for the Air Docket is (202) 566-1742.

Documents related to the affected designations are available in the following dockets:

Designations for the 1997 PM_{2.5} NAAQS: Docket ID No. EPA-HQ-OAR-2003-0061;

Designations for the 2008 Ozone NAAQS: Docket ID No. EPA-HQ-OAR-2008-0476;

Designations for the 2008 Lead NAAQS: Docket ID No. EPA-HQ-OAR-2009-0443;

Designations for the 2010 NO₂ NAAQS: Docket ID No. EPA-HQ-OAR-2011-0572; and

Designations for the 2010 SO₂ NAAQS: Docket ID No. EPA-HQ-OAR-2012-0233.

In addition, the EPA has established websites for the designation rulemakings at:

<http://www.epa.gov/pmdesignations/>, <http://www.epa.gov/ozonedesignations/>,

<http://www.epa.gov/leaddesignations/>, <http://www.epa.gov/no2designations/> and

<http://www.epa.gov/so2designations/>.

FOR FURTHER INFORMATION CONTACT: Carla Oldham, Office of Air Quality Planning and Standards, U.S. Environmental Protection Agency, Mail Code C539-04, Research Triangle Park, N.C. 27711, phone number (919) 541-3347 or by email at: *oldham.carla@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. General Information

A. Why is the EPA issuing this proposed rule?

Whenever the EPA establishes a new NAAQS, section 107(d) of the Clean Air Act requires the EPA to designate all areas of the country as meeting or not meeting the new NAAQS, or as unclassifiable where available information does not support a determination whether an area is meeting the NAAQS. The area designations and boundaries for each NAAQS are set forth in tables in the Code of Federal Regulations

(CFR) at 40 CFR part 81. This action proposes technical amendments to minor, inadvertent and nonsubstantive errors in the 40 CFR part 81 regulatory text concerning the air quality designations for certain areas in fourteen states for the 1997 PM_{2.5} NAAQS, the 2008 Ozone NAAQS, the 2008 Lead NAAQS, the 2010 NO₂ NAAQS and the 2010 SO₂ NAAQS. These states are: Alabama, Florida, Georgia, Idaho, Indiana, Iowa, Minnesota, Missouri, North Carolina, Ohio, Oregon, Tennessee, Washington and Wisconsin. This action does not propose to change the designation for any area.

We are publishing a direct final rule in the “Rules” section of this *Federal Register* because we view this as a noncontroversial action and anticipate no adverse comment. We explain our reasons for this action in the preamble to the direct final rule. The regulatory text for the proposal is identical to that for the direct final rule published in “Rules” section of this *Federal Register*.

If we receive no adverse comment, we will not take further action on this proposed rule. If we receive adverse comment, we will publish a timely notice in the *Federal Register* to withdraw the direct final rule or portions thereof. The portions that are not withdrawn will become effective on the date identified in the direct final rule, notwithstanding adverse comment on any other portion. We would address all public comments in any subsequent final rule based on this proposed rule. We do not intend to provide a second comment period on this action. Any parties interested in commenting must do so at this time. For further information, please see the information provided in the **ADDRESSEES** section of this document.

B. Where can I get a copy of this document and other related information?

In addition to being available in the docket, an electronic copy of this proposal will be available on the World Wide Web. Following signature by the EPA Administrator, a copy of this action will be posted on the EPA's website www.epa.gov/ttn/oarpg/new.html.

C. What should I consider as I prepare my comments for EPA?

Submitting CBI: Do not submit this information to the EPA through www.regulations.gov or email. Clearly mark the part or all of the information that you claim to be CBI. For CBI information in a disk or CD-ROM that you mail to the EPA, mark the outside of the disk or CD-ROM as CBI and then identify electronically within the disk or CD-ROM the specific information that is claimed as CBI. In addition to one complete version of the comment that includes information claimed as CBI, a copy of the comment that does not contain the information claimed as CBI must be submitted for inclusion in the public docket. Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2. Send or deliver information identified as CBI only to the following address: Roberto Morales, OAQPS Document Control Officer (C404-02), U.S. EPA, Research Triangle Park, NC 27711, Attention Docket ID No. EPA-HQ-OAR-2013-0802.

Tips for Preparing Your Comments. When submitting comments, remember to:

- Identify the rulemaking by docket number and other identifying information (subject heading, *Federal Register* date and page number).
- Follow directions - The agency may ask you to respond to specific questions or organize comments by referencing a CFR part or section number.

- Explain why you agree or disagree; suggest alternatives and substitute language for your requested changes.
- Describe any assumptions and provide any technical information and/or data that you used.
- Provide specific examples to illustrate your concerns and suggest alternatives.
- Explain your views as clearly as possible.
- Make sure to submit your comments by the comment period deadline identified.

II. Statutory and Executive Order Reviews

A. Executive Order 12866: Regulatory Planning and Review and Executive Order 13563: Improving Regulation and Regulatory Review

This action proposes technical amendments to minor, inadvertent and nonsubstantive errors in prior area designations. This type of action is exempt from review under Executive Orders 12866 (58 FR 51735, October 4, 1993) and 13563 (76 FR 3821, January 21, 2011).

B. Paperwork Reduction Act

This action does not propose an information collection burden under the provisions of the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.* Burden is defined at 5 CFR 1320.3(b). This action proposes to correct minor, inadvertent and nonsubstantive errors in prior area designations and does not require any party to perform an information collection.

C. Regulatory Flexibility Act

The Regulatory Flexibility Act (RFA) generally requires an agency to prepare a regulatory flexibility analysis of any rule subject to notice and comment rulemaking

requirements under the Administrative Procedure Act or any other statute unless the agency certifies that the rule will not have a significant economic impact on a substantial number of small entities. Small entities include small businesses, small organizations and small governmental jurisdictions. For purposes of assessing the impacts of today's rule on small entities, small entity is defined as: (1) a small business as defined by the Small Business Administration's regulations at 13 CFR 121.201;" (2) a small governmental jurisdiction that is a government of a city, county, town, school district or special district with a population of less than 50,000; and (3) a small organization that is any not-for-profit enterprise which is independently owned and operated and is not dominant in its field.

After considering the economic impacts of today's proposed rule on small entities, I certify that this action will not have a significant economic impact on a substantial number of small entities. This action proposes technical amendments to address several minor, inadvertent and nonsubstantive errors in the regulatory text concerning the air quality designations for certain areas in prior designation actions and does not impose any requirements on small entities.

D. Unfunded Mandates Reform Act (UMRA)

This action contains no federal mandate under the provisions of Title II of the UMRA of 1995, 2 U.S.C. 1531-1538 for state, local or tribal governments or the private sector. The action does not propose an enforceable duty on any state, local or tribal governments or the private sector. Therefore, this action is not subject to the requirements of sections 202 and 205 of the UMRA.

This action is also not subject to the requirements of section 203 of UMRA because it contains no regulatory requirements that might significantly or uniquely affect small governments. This action corrects minor, inadvertent and nonsubstantive errors in prior area designations

E. Executive Order 13132: Federalism

This action does not have federalism implications. It will not have substantial direct effects on the states, on the relationship between the national government and the states, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132. This action proposes technical amendments to minor, inadvertent and nonsubstantive errors in prior area designations. Thus, Executive Order 13132 does not apply to this action. In spirit of Executive Order 13132, and consistent with the EPA policy to promote communications between the EPA and state and local governments, the EPA specifically solicits comment on this proposed action from state and local officials.

F. Executive Order 13175: Consultation and Coordination with Indian Tribal Governments

This action does not have tribal implications, as specified in Executive Order 13175 (65 FR 67249, November 9, 2000). This action only proposes technical amendments to minor, inadvertent and nonsubstantive errors in prior area designations. Thus, Executive Order 13175 does not apply to this action.

The EPA specifically solicits additional comment on this proposed action from tribal officials.

G. Executive Order 13045: Protection of Children from Environmental Health and Safety Risks

The EPA interprets Executive Order 13045 (62 FR 19885, April 23, 1997) as applying only to those regulatory actions that concern health or safety risks, such that the analysis required under section 5-501 of the Executive Order has the potential to influence the regulation. This action is not subject to Executive Order 13045 because it does not establish an environmental standard intended to mitigate health or safety risks.

H. Executive Order 13211: Actions That Significantly Affect Energy Supply, Distribution or Use

This action is not subject to Executive Order 13211 (66 FR 28355 (May 22, 2001)), because it is not a significant regulatory action under Executive Order 12866.

I. National Technology Transfer and Advancement Act (NTTAA)

Section 12(d) of the NTTAA of 1995, Public Law No. 104-113, section 12(d) (15 U.S.C. 272 note) directs the EPA to use voluntary consensus standards (VCS) in its regulatory activities unless to do so would be inconsistent with applicable law or otherwise impracticable. VCS are technical standards (e.g., materials specifications, test methods, sampling procedures and business practices) that are developed or adopted by VCS bodies. The NTTAA directs the EPA to provide Congress, through the Office of Management and Budget, explanations when the agency decides not to use available and applicable VCS. This action does not involve technical standards. Therefore, the EPA did not consider the use of any VCS.

J. Executive Order 12898: Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations.

Executive Order 12898 (59 FR 7629 (Feb. 16, 1994)) establishes federal executive policy on environmental justice. Its main provision directs federal agencies, to the greatest extent practicable and permitted by law, to make environmental justice part of their mission by identifying and addressing, as appropriate, disproportionately high and adverse human health or environmental effects of their programs, policies and activities on minority populations and low-income populations in the U.S.

The EPA has determined that this proposed rule will not have disproportionately high and adverse human health or environmental effects on minority or low-income populations because it does not affect the level of protection provided to human health or the environment. This action proposes technical amendments to minor, inadvertent, nonsubstantive errors in the designations for certain areas.

List of Subjects in 40 CFR Part 81

Environmental protection, Air pollution control, National parks, Wilderness areas.

Dated: April 15, 2014

Gina McCarthy,
Administrator.

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